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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/519,999	03/06/2000	Shigeo Ozawa	4495-001	8766

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EXAMINER

MADSEN, ROBERT A

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 08/27/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/519,999

Applicant(s)

OZAWA

Examiner

Robert Madsen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-18 and 20-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-18 and 20-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 12, 13
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Prosecution Application

The request filed on June 10, 2002 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/519,999 is acceptable and a CPA has been established. An action on the CPA follows. Claims 10-18, 20-29 remain pending in the application.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Water or liquid, which is critical or essential to the practice of the limitation of claim 12, is not included in the independent claim 10 and thus is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). In the disclosure, when the substance in the second inner bag is coffee or tea, it is hot liquid that permeates the second inner bag (Page 5 paragraph 12). As currently written, claim 10 recites the first inner bag has a vapor-hole that releases vapor from the first inner bag and the release vapor permeates through the second inner bag. Applicant is reminded that it is the first inner bag *structure* recited in claim 10 and 20 that overcame the teachings of the prior art : a first inner bag having

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a *vapor* release hole at the *upper part* of the first inner bag such that heated liquid escapes as *vapor*.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-18,21-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "liquid-releasing hole" in line 6, "mixed with said liquid" in line 10, "heated liquid" in line 11, and "mixed liquid" in 16. There is insufficient antecedent basis for these limitations since the inner bag releases a *vapor* not a liquid.

Claim 12 is drawn to the second inner bag containing seasonings, tea or coffee. In the disclosure when the second inner bag contains seasonings, tea or coffee, the outer bag contains *liquid* that has been released from the first inner bag. However, claim 10 recites *vapor* is released from the first inner bag *into* the outer bag. There is no mention of *liquid* in the outer bag. Therefore, claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted element is *liquid* in the outer bag, which is disclosed to be present in the outer bag when the second inner bag contains seasonings, tea or coffee.

Claim 14 recites "said heated and mixed liquid" in line 3. There is insufficient antecedent basis for these limitations since the inner bag releases a *vapor* not a liquid.

Claim 20 recites the limitation "liquid-releasing hole" in line 4, "mixed with said liquid" in line 9, "liquid" in line 10. There is insufficient antecedent basis for these limitations since the inner bag releases a *vapor* not a liquid.

Claim 23 recites " said heated and mixed liquid" in lines 2 and 3. There is insufficient antecedent basis for these limitations since the inner bag releases a *vapor* not a liquid.

Claim 24 recites " said heated and mixed liquid" in lines 2 and 3. There is insufficient antecedent basis for these limitations since the inner bag releases a *vapor* not a liquid.

Allowable Subject Matter

Claims 10 -18,21-29 would be allowable if independent claims 10 and 20 and dependent claims 12,14,23, and 24 were rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. In the interview of August 21, 2002 applicant's representative proposed amending claims 10,14,20,23 and 24 to overcome the rejection of Claims 10,11,13-18,21-29 under 35 U.S.C. 112, second paragraph, but an amendment to overcome the rejection of claim 12 was not presented. The proposed amendments are:

Claim 10:

Line 6: Delete "liquid" and insert –vapor--.

Line 10: After "mixed with said", delete "liquid", and insert –vapor--.

Line 11: After "inner bag", insert –as vapor--.

Line 15: Delete "for".

Delete Line 16.

Claims 14 and 24:

Line 2: Delete "whereby only said heated and mixed liquid can be
discharged from".

Delete Line 3.

Claim 20:

Line 4: Delete "liquid" and insert --vapor--.

Line 9: After "mixed with said", delete "liquid", and insert --vapor--.

Line 10: After "inner bag", insert --as vapor--.

Claim 23:

Line 2: Delete "for selectively discharging said heated and"

Delete Line 3.

The following is a statement of reasons for the indication of allowable subject matter: Applicant is the first to disclose a container comprising:

- an outer bag;
- a first inner bag accommodated in the outer bag that is
filled with a liquid,

liquid –impermeable except at least for a *vapor releasing hole* that is position in *the upper part* thereof and closed by a first seal configured to pen when the pressure of the liquid reaches a predetermined level thereby allowing the heated liquid to escape the first inner bag as *vapor*, and

a second inner bag accomodated in the outer bag and containing therein a substance to be mixed with the *vapor*, the second inner bag being made of liquid-permeable at least partly for allowing the heated liquid, after escaping the first inner bag as *vapor*, to enter the second inner bag and to heat and be mixed with the substance;

Applicant is also the first to combine three additional features to said container:


- (1) the first inner bag is equipped with an internal heating element for heating the liquid and raising the pressure of the liquid inside the first inner bag
- (2) the outer bag has a vapor-releasing hole that is formed at the top of the outer bag closed by a second seal configured to open when a pressure inside the outer bag reaches a predetermined value, and
- (3) the outer bag has a liquid-releasing hole formed at the bottom of the outer bag.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (703)305-0068. The examiner can normally be reached on 7:00AM-3:30PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703)308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

Robert Madsen 
Examiner
Art Unit 1761
August 26, 2002


MILTON I. CANO
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